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May 12, 2017

Via ECF and Hand Delivery

The Honorable Anita B. Brody
United States District Court
Eastern District of Pennsylvania
U.S. Courthouse
601 Market Street, Room 7613
Philadelphia, PA 19106-1744

Re: In Re: National Football League Players' Concussion Injury Litigation
No. 2:12-md-02323-AB

Dear Judge Brody:

We represent NFL Case Consulting, LLC and Jim McCabe in connection with Co-Lead Class Counsel's Motion for an Injunction Prohibiting Improper Communications with the Class (the "Motion") (ECF No. 7347). Together with counsel to the NFL, we submit this Status Report pursuant to the Court's Order of May 2, 2017 (ECF No. 7595). We submit this report to apprise the Court of the status of negotiations regarding the Motion. Co-Lead Class Counsel have stated that they will file a separate status report with the Court.

Since all parties submitted their prior reports to the Court on April 21, 2017 (ECF No. 7532) and April 28, 2017 (ECF No. 7585), NFL Case Consulting, LLC has attempted to address all substantive concerns presented by Co-Lead Class Counsel and counsel to the NFL. Specifically and most recently, NFL Case Consulting, LLC has responded completely to all claims raised in a letter from Co-Lead Class Counsel dated May 5, 2017. A copy of the May 5,

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The Honorable Anita B. Brody
May 12, 2017
Page 2

2017 letter is attached hereto as Exhibit 'A.' NFL Case Consulting, LLC has entirely redesigned its website and marketing materials to address the concerns of counsel for the NFL related to the NFL's intellectual property. NFL Case Consulting, LLC has presented its redesigned website to the Parties and has received no proposed changes. NFL Case Consulting, LLC has also agreed not to use any of the NFL's intellectual property in its marketing materials or website.

Further, NFL Case Consulting, LLC has attempted to address the concerns raised by the Motion and other concerns raised by Co-Lead Class Counsel by designing a procedure through which Class Members who have contracted with NFL Case Consulting, LLC are provided with certain written and verbal disclosures¹ to ensure that all Class Members contracting with NFL Case Consulting, LLC have done so knowingly and willingly. This procedure requires all Class

¹ The ten disclosures contemplated by NFL Case Consulting, LLC, now operating as "Case Strategies Group" are as follows: (1) Case Strategies Group **is not** a law firm; (2) Case Strategies Group **does not** work for a law firm; (3) Case Strategies Group works **with a network** of attorneys and can provide a Class Member with a list of options for legal counsel, but that a Class Member is free to retain any attorney he chooses; (4) Case Strategies Group **does not** work with the National Football League ("NFL") or the NFL Players Association ("NFLPA"); (5) Case Strategies Group **does not** work with the Claims Administrator's Office and was not appointed or endorsed by the United States District Court for the Eastern District of Pennsylvania; (6) Case Strategies Group **does** charge a fee on contingency based on the success of a Class Member's claim. If the Class Member's claim is not paid, he will not owe anything to Case Strategies Group. If a Class Member's claim is paid, Case Strategies Group is entitled to a percentage of the Class Member's recovery based on his contract; (7) The Class Member **does not** have to hire Case Strategies Group or an attorney to file a claim; (8) The Class Member is aware and understands that Case Strategies Group does assist in the processing of his claim, but the final decision as to how to proceed is the Class Member's choice as the client; (9) The Class Member is aware that Case Strategies Group assists an attorney of the Class Member's choosing with the administrative aspects of his claim; and (10) The Class Member is aware and understands that he will be in control of the decision made regarding the pursuit of his claim. The Class Member is free to terminate this agreement at any time **prior** signing the written acknowledgement without incurring any charges from Case Strategies. If the Class Member chooses to terminate his agreement at some time in the future, the Class Member will receive a bill for the services undertaken by Case Strategies Group on behalf of the Class Member.

Montgomery McCracken Walker & Rhoads LLP

The Honorable Anita B. Brody
May 12, 2017
Page 3

Members who wish to continue using the services of NFL Case Consulting, LLC to acknowledge receipt of the disclosures and affirmatively opt in to continue receiving services from NFL Case Consulting, LLC. Any Class Member who does not wish to continue using NFL Case Consulting, LLC's services after receiving these disclosures does not need to take any action – their contracts are voided without cost to the Class Member simply by not returning an acknowledgment. This process, together with other significant progress on issues raised by Co-Lead Class Counsel, represents a concerted effort by NFL Case Consulting, LLC to address all concerns from Co-Lead Class Counsel. This progress was detailed to opposing counsel in a letter dated May 10, 2017. A copy of the May 10, 2017 letter is attached hereto as Exhibit 'B.'

Despite this progress, on May 11, 2017 Co-Lead Class Counsel informed the Parties that an impasse had been reached and Co-Lead Class Counsel would be filing a new Motion seeking injunctive relief against NFL Case Consulting, LLC on May 19, 2017. A copy of Co-Lead Class Counsel's May 11, 2017 e-mail is attached hereto as Exhibit 'C.' Co-Lead Class Counsel declared this impasse because of NFL Case Consulting, LLC's "unwillingness to identify the Class Members with whom they have contracted in order to facilitate [Co-Lead Class Counsel's] direct communications with those individuals..." as well as NFL Case Consulting, LLC's "refusal to disclose the law firms to which they refer Class Members with whom they've contracted." Co-Lead Class Counsel has not objected to, or offered any revisions to, the new marketing and website content designed to address concerns raised by the Parties. Co-Lead Counsel also has not objected to the opt-in procedures designed by NFL Case Consulting, LLC. Rather, Co-Lead Class Counsel has stated that they believe it necessary to contact all of NFL Case Consulting, LLC's clients and/or their attorneys in order to "assure ourselves" that Class

Montgomery McCracken Walker & Rhoads LLP

The Honorable Anita B. Brody
May 12, 2017
Page 4

Members have not entered into contracts with NFL Case Consulting, LLC “based upon inaccurate information.”

For its part, NFL Case Consulting, LLC cannot discern a legitimate reason to disclose its client list to Co-Lead Class Counsel given the affirmative opt-in procedure proposed by NFL Case Consulting, LLC. Further, as many of NFL Case Consulting, LLC’s clients are represented by legal counsel apart from Co-Lead Class Counsel, NFL Case Consulting, LLC does not wish to facilitate any potential communications by Co-Lead Class Counsel to represented parties. All that being said, NFL Case Consulting, LLC, in speaking to its clients, will ask them and their attorney(s) for permission to disclose their identities to Class Counsel. NFL Case Consulting, LLC will then disclose the name of those clients, and their counsel’s name, to Co-Lead Class Counsel. These concerns were detailed to Co-Lead Class Counsel in an e-mail dated May 11, 2017. A copy of the May 11, 2017 e-mail from counsel for NFL Case Consulting, LLC and Jim McCabe is attached hereto as Exhibit ‘D.’

Accordingly, the Parties are unsure of whether an amicable resolution can be reached in this matter. If Co-Lead Class Counsel intends to file a new Motion for Injunctive Relief against NFL Case Consulting, LLC, the Parties will propose a briefing schedule for the Court’s consideration.

Respectfully submitted,

/s/ Richard L. Scheff
Richard L. Scheff

cc: Christopher A. Seeger, Esq., *Co-Lead Class Counsel*
Sol Weiss, Esq., *Co-Lead Class Counsel*
Lynn B. Bayard, Esq., *Counsel for the NFL*
Douglas M. Burns, Esq., *Counsel for the NFL*